



STATE OF MICHIGAN
**Family
Independence
Agency**

Child and Family Services Review Self- Assessment

Attachment A

Binsfeld Children's Commission
Executive Order 1995-12

The Commission's charge was to: "Review current laws, programs, procedures, policies, and training procedures that affect children and create recommendations to help improve the quality of life for Michigan's Children."

Theme: Safety, permanency and child and family well-being

First set of legislation was effective 4/1/1998.

Second set of legislation was effective 3/1/1999.

PUBLIC ACT 163 OF 1997
AMENDED THE JUVENILE CODE

1. Requires that if CPS files a mandated petition, the court must hold a hearing within 24 hours or the next business day after the petition is submitted.
2. At the court hearing, the court must consider whether to remove the perpetrator or the child from the home or leave the child in the home based on the child's safety.
3. In a petition for perpetrator removal, the court must determine on the record that the presence in the home of the alleged perpetrator presents a substantial risk of harm to the child. Previously, this determination did not need to be made on the record.
4. In a petition alleging abuse, regardless of whether the court orders the alleged abuser out of the home, the court shall not leave the child in the home or return the child to the home or place the child within an unlicensed home unless the court finds that the conditions of custody at the placement are adequate to safeguard the child from the risk of harm to the child's life, physical health or mental well-being.

Courts have interpreted this to mean that a child may be placed with a non-relative without a foster home license.

5. Within 7 days after a child is placed with a relative, FIA shall perform a criminal record check and a central registry clearance on the relative(s).
6. A home study must be completed and submitted to the court within 30 days of placement with the relative.
7. If a child is removed from his/her own home, the parent(s) shall be permitted to have parenting time frequently. However, if parenting time, even if supervised, may be harmful to

the child, the court shall order the child to have a psychological evaluation and/or counseling, to determine the appropriateness and the conditions of parenting time. The court may suspend parenting time while the psychological evaluation and/or counseling is conducted.

8. As part of the court order placing a child in foster care, the order shall direct the release of information to the foster care provider. Within 10 business days after a written request, the supervising agency shall provide the foster care provider with copies of all initial, updated, and revised case services plans and court orders relating to the child along with all of the child's medical, mental, and education reports. This includes reports compiled before the child was placed with the current provider. The foster parents can also make a written request for the information without the court order.
9. In an order placing a child in foster care, the court shall include an order requiring the parent, guardian, or custodian provide the supervising agency with the name and address of the child's medical providers and an order that each of the child's medical providers release the child's medical records.
10. The agency responsible for the child's care can not change a child's foster care placement except under one of the following circumstances:
 - The person providing the foster care requests the change;
 - The court orders the child returned home;
 - The change in placement is less than 30 days after the child's initial removal from his/her home;
 - The change in placement is less than 90 days after the initial removal and the new placement is with a relative;
 - The supervising agency has reasonable cause to believe that the child has suffered sexual abuse, or non-accidental physical injury or there is substantial risk of harm to the child's emotional well being within the home.

If the child is moved from the foster care placement for reasons other than those described above, the child can not be moved immediately. The supervising agency must:

- Notify the State Court Administrative Office of the proposed move;
- Notify the foster parent and provide the care provider with the address and telephone number of the Foster Care Review Board (FCRB).

If the foster parent disagrees with the decision to move the child, they may appeal the decision within three days to the FCRB. The agency may not move the child until either a decision is made by the Board agreeing with the decision to move the child or the court orders the child to be moved.

If no appeal is made to the FCRB, the child may be moved after three days.

The FCRB must conduct an investigation within three days of receipt of an appeal. They must notify the court, foster parents, the parents and the agency of their recommendations. If the Board agrees with the move, the child can be moved. If they disagree, the Board must

notify the court of the disagreement. The court must hold a hearing within 14 days. The court must order the continuation of the placement unless the court finds the proposed change is in the child's best interest.

Public Act 46 of 2000 amended section 13a to include MCI/State wards.

11. Parenting time is suspended at the time of the initial hearing on termination of parental rights. This was changed by Public Act 479 of 1998. Currently, parenting time is suspended at the time the termination petition is filed with the court.
12. If FIA substantiates additional abuse/neglect of a child under court jurisdiction, FIA shall file a supplemental petition with the court.
13. Court Review hearings must be held every 91 days, except for relative placements or when there is a permanent foster family agreement.
14. The Act requires the court to hold a permanency planning hearing within 364 days after the initial petition is filed with the court. Previously, the hearing had to be held within 364 days after the dispositional hearing. If the child is not returned home at the hearing, the court shall order the agency to file a petition to terminate parental rights unless the court finds that termination is not in the child's best interest.

Public Act 46 of 2000 requires the permanency planning hearing within "one-year" of the initial filing of the petition. It also requires a permanency planning hearing within 28 days after a mandatory petition is adjudicated. (ASFA requirement)

Public Act 165 of 1997
Amended the Child Care Organization Act

Allows the Department of Consumer and Industry Services to grant a variance to a foster home license to allow a sibling group to be placed together in a foster home.

Public Act 166 of 1997
Amended the Child Protection Law

1. Implemented a standard child abuse and neglect investigation and interview protocol based on the protocol developed by the Governor's Task Force on Children's Justice.
2. Requires FIA to notify a mandated reporter of the outcome of a CPS investigation.

Public Act 167 of 1997
Amended the Child Protection Law

Allows Child Fatality Review Teams (CFRT) in each county and mandates that a statewide advisory committee be developed. The advisory committee must publish an annual report. CFRTs may, but are not required to, review all child deaths occurring in the county. Most teams review the statistics within the county on all child deaths to determine if there are any trends noted and to initiate prevention efforts in the community. Reviews that are more intensive are done on suspicious deaths, which include SIDS and abuse/neglect deaths.

Public Act 168 of 1997
Amended the Child Protection Law (CPL)

1. The Prosecuting Attorney must review all investigations where CPS has found a preponderance of evidence where a child's death, serious physical injury or harm has occurred, to determine if the investigation complied with the investigation protocol.
2. Prohibits CPS from interviewing a child in the presence of an alleged perpetrator.
3. Within 24 hours after CPS determines that a child was severely physically injured as defined in section 8 or sexually abused, the department shall submit a petition to the court requesting the court to take jurisdiction.

Section 8 (3)(c): Abuse or neglect resulting in severe physical injury to the child requires medical treatment or hospitalization. For purposes of this subdivision and section 17, "severe physical injury" means brain damage, skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprains, internal injuries, poisoning, burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or physical well-being of a child.

4. CPS must file a petition requesting termination of parental rights at the initial dispositional hearing if a parent is a suspected perpetrator or a parent is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk.

The parent abused the child or a sibling of the child and the abuse included one or more of the following:

- Abandonment of a young child
- Criminal sexual conduct involving penetration, attempted penetration or assault with intent to penetrate
- Battering, torture, or other severe physical abuse
- Loss or serious impairment of an organ or limb
- Life threatening injury
- Murder or attempted murder

CPS determines that there is risk of harm to the child and either of the following is true:

- The parent's rights to another child were terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state.
- The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state.

Public Act 169 of 1997
Amended the Juvenile Code

1. States that the court can only adjourn a hearing or grant a continuance regarding a case for good cause with factual findings on the record and not solely upon the stipulation of counsel or for the convenience of a party. In addition to factual good cause, the court shall only adjourn a hearing or grant a continuance if either of the following are true:
 - A party moves for the adjournment or continuance in writing at least 14 days before the hearing.
 - Upon the court's own motions, an adjournment or continuance shall only be granted if the delay is in the child's best interest and for a period of not more than 28 days, unless the court states on the record the specific reasons why a continuance is necessary.
2. Requires that the child's attorney shall be present at all hearings. Substitute counsel is not allowed unless approved by the court.
3. Prohibits the court from discharging a child's attorney except for good cause, so long as the child is subject to the jurisdiction, control, or supervision of the court, or of the Michigan Children's Institute or other agency.
4. If FIA becomes aware of additional abuse/neglect of a child who is under the jurisdiction of the court, FIA must file a supplemental petition with the court.
5. Requires the court to issue an opinion or order regarding a petition for termination of parental rights within 70 days after the commencement of the initial hearing on the petition. If the court fails to issue an opinion within 70 days, it does not dismiss the petition.
6. Adds the Mandated petition conditions to the grounds for termination of parental rights.
7. Requires the State Court Administrator's Office to publish an annual report evaluating the courts on their achievements in obtaining permanency for children. The report must include information and statistics on the court's adherence to time periods prescribed by this bill or court rule for the management and disposition of children's cases. If the court fails to adhere to a time period, the specific reason for that failure must be listed in the report.

Public Act 170 of 1997
Amended the Foster Care Review board Act

1. Mandated Foster Care Review Boards (FCRB) in each county.
2. Allows the board to have 1 or more alternate members who will serve when an appointed board member is unavailable.
3. Mandates a FCRB to conduct an investigation of a proposed change in a foster care placement upon the request of the foster parent.
4. Allows the FCRB to report its findings from the investigation to the court.
5. Mandate the FCRB to select permanent wards for on-going reviews from the following categories:
 - Wards who are registered with the Michigan Adoption Resource exchange (MARE) who have been on hold status for 12 months or more.
 - Wards who have not been registered with MARE and have been permanent wards for six months or longer and do not have an identified permanency plan.
 - Wards who are less than 12 years of age and have been listed in the MARE photo listing book for more than 8 months and for whom no family has yet been found.
6. Mandates that the FCRB compile and maintain statistics and make findings regarding the reviews above. The report must identify the barriers to permanency. This report must be submitted to the Legislature and the Governor.
7. The FCRB may recommend a licensing variance to the Department of Consumer and Industry Services to allow a child to be placed with a sibling(s), if the variance does not jeopardize the health or safety of the child.

Public Act 171
Amended the Michigan Children's Institute Act

1. Allows the MCI Superintendent and the child's attorney to communicate with each other regarding issues of commitment, placement and permanency planning.
2. If the child's attorney has an objection or concern regarding such an issue, the Superintendent and the child's attorney shall consult with each other regarding that issue.

Public Act 172
Amended the Foster Care and Adoption Services Act

1. As part of the development of the Initial Service Plan (ISP), the supervising agency shall identify, locate and consult with relatives to determine if placement with a fit and appropriate relative would meet the developmental, emotional, and physical needs of the child as an alternative to placement in foster care.

Within 90 days of the child's placement in foster care, the supervising agency shall make a placement decision regarding the child and provide written notice of the decision to:

- Child's attorney,
- Guardian, mother or father,
- Guardian ad litem,
- Attorneys for the mother and father,
- All relatives who have expressed an interest in placement
- The child, if the child is old enough to have expressed an interest,
- The prosecutor.

Within 5 days of receipt of the above notice, a person may request documentation of the reasons for the placement decision. If the person disagrees with the decision, s/he may request that the child's attorney review the decision to determine whether the decision was in the child's best interest.

If within 14 days of the written decision, the child's attorney determines that the decision was not in the child's best interest, the attorney shall petition the court for a review hearing.

Requires the court to hold the review hearing not more than 7 days after the date of the attorney's petition. The hearing must be held on the record.

2. Requires the supervising agency to strive to achieve a permanent placement for the child, including either a safe return to the child's home or implementation of a permanency plan, no more than 12 months after the child is removed from his or her home. The 12 month goal shall not be extended or delayed for reasons such as a change or transfer of staff or worker at the supervising agency.
3. Requires that if an adoptive family has not been identified a child within 90 days after entry of an order of termination of parental rights, the supervising agency shall place the child on MARE.
4. Requires the supervising agency worker to make monthly visits with a child in foster care regardless of placement setting.
5. Requires the supervising agency worker to monitor parenting time.

6. The supervising agency must institute a flexible schedule to provide a number of hours outside of the traditional workday to facilitate parenting time.
7. Requires the supervising agency to obtain medical information from the child's parent and a signed release for the child's medical records.
8. Mandate that the child's medical provider remain constant while the child is in foster care unless the child's current primary medical provider is a managed care health plan or unless doing so would create an unreasonable burden for the relative, foster parent, or other custodian.
9. The supervising agency shall develop a Medical Passport for each child in foster care which contains all of the following:
 - All medical information required by policy or law to be provided to foster parents.
 - Basic medical history.
 - A record of all immunizations.
 - Any other information concerning the child's physical health and mental health.

Requires the worker to sign and date the Passport each time a case is transferred to another caseworker.

10. Requires a psychological assessment or evaluation by an experienced and licensed mental health professional or a certified social worker who is trained in children's psychological assessments of any MCI ward who has suffered sexual abuse or serious physical abuse or mental illness.
11. The supervising agency must ensure that each child receives a medical examination when the child is first placed in foster care.
12. Requires FIA to publish an annual report card for each supervising agency that evaluates the achievement of that agency in obtaining permanency for children and making recommendations for the removal of barriers to permanency.

Second Set of Bills

Public Act 428 of 1998 Amended the Child Protection Law

Fixed Public Act 168, mandated petitions require the department determine a risk of harm when parental rights had been previously terminated either voluntarily or involuntarily. Also required that the parent be the suspected perpetrator or the parent placed the child at risk of harm due to failure to intervene.

Public Act 479 of 1998
Amended the Juvenile Code

1. If the child has been diagnosed with any of the following conditions, the FIA shall review a child's case plan with the child's physician:
 - Failure to thrive
 - Munchausen's syndrome by proxy
 - Shaken baby syndrome
 - A bone fracture that is diagnosed as being the result of abuse or neglect.
 - Drug exposure

The court must notify the physician of a hearing where the court is considering returning the child to his or her home. The court must allow the physician to testify at the hearing.

2. Add the following to the grounds for termination of parental rights:

The parent is convicted of 1 or more of the following, and the court determines that termination of parental rights is in the child's best interest because continuing the parent-child relationship with the parent would be harmful to the child:

- (i) A parent is convicted of a violation of the Michigan Penal Code, sections:
 - First and second degree murder
 - First through fourth degree criminal sexual conduct
- (ii) A parent is convicted of a violation of a criminal statute, an element of which is the use of force or the threat of force, and the parent is subject to sentencing under the following section of the Code of Criminal Procedure...as a habitual offender.

Public Act 480 of 1998
Amended the Juvenile Code
(Public Act 483-Child Protection Law)
(Public Act 482-Child Custody Act)
Public Act 481-Juvenile Code, Guardianship)

1. Defines an attorney, guardian ad litem and lawyer-guardian ad litem in the Juvenile Code.
2. Lawyer-guardian ad litem's duties are to the child and not the court. These duties include:
 - Attorney-client privilege
 - Independent representative for the child's best interest
 - Conduct an independent investigation to determine the facts of the case
 - Meet with the child before each hearing and observe the child, assess the child's needs and wishes, consult with the child's parent, foster care providers, guardians and caseworkers
 - Explain to the child his/her role

- To file all necessary pleadings and papers and call witnesses
- Attend all hearings or substitute counsel for the child only with court approval
- To make a determination of the child's best interest and advocate for those best interests
- Inform the Judge of the child's wishes and preferences
- Monitor implementation of the case plans and court orders
- The court may appoint an attorney for the child if the child's interests and the lawyer-guardian ad litem's interests differ. The court will consider the age of the child when appointing an attorney.

**Public Act 494 of 1998
Amended the Juvenile Code**

Allows the court to consider a guardianship petition from a third party with whom parents have placed a child (without providing any legal authority to that party) as long as the child did not reside with the parents at the time of the petition. Previously, the child had to be residing with the third party at the time of the hearing.

**Public Act 495 of 1998
Amended the Foster Care and Adoption Services Act**

Requires the adoption worker to release to the prospective adoptive parents the following:

- Child's non-identifying information
- The petition(s) that resulted the each placement of the child
- Initial and updated service plans for the child for each foster care and adoptive placement(s)
- Written verification that the information was provided

The adoption worker must also hold a conference with the prospective adoptive parent and accomplish all of the following:

- Review and discuss the information provided to the persons
- Disclose all other information known by or available to the worker regarding the child's medical and psychological needs
- Prepare and provide a list of the child's medical and psychological needs that are identified and discussed during the conference
- Prepare written verification of release of this information and the conference, with signatures of the worker and prospective adoptive parents

**Public Act 496 of 1998
Amended the Public Health Code**

Allows release of medical information to CPS during the course of a CPS investigation. The request for the records must be in writing. There must be a "compelling need" for the information. Grants immunity to the person(s) releasing the records.

Public Act 497 of 1998
Amended the Mental Health Code

Allows release of mental health records to CPS during the course of a CPS investigation. The request for the records must be in writing. There must be a “compelling need” for the information. Grants immunity to the person(s) releasing the records.